

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		08-880-US10
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	09/684,388	Filed
	First Named Inventor	
	David C. Gelvin	
<p>Art Unit</p> <p>2431</p>	Examiner	
	Aravind K. Moorthy	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record. 57432
Registration number _____.

attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____.

/David L. Ciesielski/

Signature

David L. Ciesielski

Typed or printed name

312 913 0001

Telephone number

November 12, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

*Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
(Attorney Docket No. 08-880-US10)

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REASONS FOR REVIEW OF THE FINAL REJECTION

Pursuant to the Pre-Appeal Brief Conference Program, Applicant requests review of the Final Office Action mailed on 18 June 2009 for the above-identified application because the Examiner has clearly erred in rejecting the pending claims of this application. In this paper, Applicant refers to the remarks of the Response after Final that was submitted to the Patent Office for this application on 18 August 2009 (hereinafter "*Response after Final*").

1. The claimed invention and status of the claims

Claims 1-66 and 76-82 are pending. Of the pending claims, claims 1, 66, and 77 are independent. Claim 1 and the claims depending from claim 1 are directed to methods for host vehicle internetworking. Claims 66, 77, and the claims depending from claim 77 are directed to methods for internetworking.

2. Summary of final office action

In the Final Office Action, the Examiner rejected claims 1-10, 15-18, 21, 25-32, 34-47, and 52-66 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,175,868 (Lavian),

(ii) the Examiner rejected claims 77 and 82 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 7,383,341 (Saito) and U.S. Patent No. 6,507,810 (Razavi), and (iii) the Examiner rejected each of claims 11-14, 19-20, 22-24, 33, 48-51, 69-74, 76, 78-82 under 35 U.S.C. § 103(a) as being obvious over 1 of 11 other combinations of references. A summary of these other obviousness rejections is located in the *Response after Final* at pg. 20, lines 5-23.

3. The Examiner's clear error in rejecting the claims

a. Claims 1-10, 15-18, 21, 25-32, 34-47, and 52-65

Independent claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Lavian. Under M.P.E.P. § 2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Moreover, “[a]nticipation requires the presence in a single prior art disclosure of all elements of a claimed invention arranged as in the claim.” Connell v. Sears, Roebuck & Co., 722 F.2d 1542 (Fed. Cir. 1983), 1548 (citing to Soundscriber Corp. v. U.S., 360 F.2d 954, 960 (Ct. Cl. 1966) (emphasis added)). Lavian does not teach or suggest each and every element as arranged in independent claim 1.

First, claim 1 recites, *inter alia*, “coupling a plurality of network elements in a vehicle, the vehicle including at least one node and at least one vehicle bus that is connected to at least one peripheral electronic device.” Lavian does not disclose or suggest a vehicle. Therefore, even if it is assumed, for the sake of argument, that Lavian discloses coupling a plurality of network elements, Lavian does not disclose or suggest coupling a plurality of network elements in a vehicle, the vehicle including at least one node and at least one vehicle bus that is connected to at least one peripheral electronic device, as this limitation is arranged in claim 1.

Next, claim 1 also recites “the plurality of network elements automatically assembling and configuring in response to the node information.” The Examiner cited to Lavian, column 4, line 62, to column 5, line 22 for disclosing this limitation of claim 1. This cited portion of Lavian discloses, *inter alia*, analyzing events and information 315 relating to network traffic to see if they meet one or more of a set of predefined threshold conditions, and if so, downloading network configuration software 313 to reconfigure a network switch 305. *See*, Lavian, column 5, lines 10-20. Reconfiguring a single element (i.e., network switch 305) does not amount to *a plurality of network elements automatically assembling and configuring* in response to node information. Applicant submits that the other portions of Lavian also do not disclose or suggest “the plurality of network elements automatically assembling and configuring in response to the node information.”

Moreover, as arranged in claim 1, the node information includes configuration and security information. Applicant submits that Lavian does not disclose or suggest that the events and information 315 includes configuration and security information, and thus Lavian’s events and information 315 does not amount to the node information recited in claim 1.

Since Lavian does not teach or suggest each and every element as arranged in claim 1, the Examiner erred in rejecting claim 1 under 35 U.S.C. § 102(e) as being anticipated by Lavian. Furthermore, since dependent claims 2-10, 15-18, 21, 25-32, 34-47, and 52-65 depend from claim 1 and necessarily include each and every limitation of claim 1, the Examiner erred in rejecting these dependent claims under 35 U.S.C. § 102(e) as being anticipated by Lavian.

b. Independent claim 66

The Examiner rejected independent claim 66 under 35 U.S.C. § 102(e) as being anticipated by Lavian. Since Lavian does not disclose or suggest a vehicle, Applicant submits

that Lavian does not disclose or suggest “coupling a plurality of network elements in a vehicle, the vehicle including at least one electronic device, at least one node and at least one vehicle bus,” as this limitation is arranged in claim 66. Applicant further refers the panel of examiners to the remarks in the *Response after Final* at pg. 23, line 5, to pg. 24, line 2.

Furthermore, Lavian does not disclose or suggest “at least one remote computer remotely accessing the plurality of network elements via at least one wireless Internet coupling,” as this limitation is arranged in claim 66. In the advisory action, the Examiner stated, “The applicant argues that Lavian does not disclose wireless Internet. Lavian discloses the communications take place through a mobile connection.” As far as Applicant can tell, the Examiner has equated a mobile connection as the claimed at least one wireless Internet coupling. With regard to a mobile connection, Lavian, at best, discloses that a network 1001 containing optivity software running on a NMS 1003 communicates via ***Java mobile agents*** 1004 with a file server, which may in turn communicates via transferred agents 1006 with a network switch 1007. Applicant submits that the Java mobile agents do not amount to a wireless Internet coupling, and the other portions of Lavian do not disclose or suggest a wireless Internet coupling. Applicant also refers the panel of examiners to the remarks in the *Response after Final* at pg. 24, lines 3-24.

Since Lavian does not disclose or suggest each and every element as arranged in claim 66, the Examiner erred in rejecting claim 66 under 35 U.S.C. § 102(e) as being anticipated by Lavian.

c. Independent claim 77

The Examiner erred in rejecting independent claim 77 under 35 U.S.C. § 103(a) as being obvious over Saito and Razavi because the Examiner has not articulated reasons with some rational underpinning to support the legal conclusion of obviousness of claim 77. For claim 77,

Applicant refers the panel of examiners to the remarks in the *Response after Final* at pg. 25, line 12, to pg. 27, line 5.

d. Dependent claims 11-14, 19, 20, 22-24, 33, 48-51, 69-74, 76, and 78-82

With regard to dependent claims 11-14, 19, 20, 22-24, 33, 48-51, 69-74, 76 and 78-82, Applicant refers the panel of examiners to the remarks in the *Response after Final*. For claims 69-74, see *Response after Final*, pg. 25, lines 5-11. For claim 82, see *Response after Final*, pg. 27, line 6, to pg. 28, line 7. For claims 11-14, 19 and 20, see *Response after Final*, pg. 28, lines 8-17. For claims 22-24, see *Response after Final*, pg. 28, line 18, to pg. 29, line 3. For claim 33, see *Response after Final*, pg. 29, lines 4-12. For claims 48-50, see *Response after Final*, pg. 29, lines 13-21. For claim 51, see *Response after Final*, pg. 30, lines 1-9. For claim 76, see *Response after Final*, pg. 30, line 10, to pg. 31, line 18. For claim 78, see *Response after Final*, pg. 31, line 19, to pg. 32, line 17. For claim 79, see *Response after Final*, pg. 32, line 18, to pg. 33, line 13. For claims 80 and 81, see *Response after Final*, pg. 33, line 14, to pg. 34, line 16.

4. Conclusion

For the foregoing reasons, Applicant submits that the Examiner clearly erred in rejecting claims 1-66 and 76-82. Pursuant to the Pre-Appeal Brief Conference Program, Applicant submits these Reasons for Review of the Final Rejection along with a Notice of Appeal and a Pre-Appeal Brief Request for Review, and Applicant respectfully requests review of the Final Office Action mailed 18 June 2009.

Respectfully submitted,

**McDonnell Boehnen
Hulbert & Berghoff LLP**

Date: 15 October 2009

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